

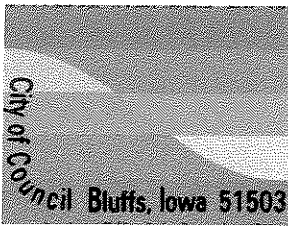
OFFICE OF:
CITY CLERK
(712) 328-4616

AGENDA

**CITY COUNCIL STUDY SESSION
COUNCIL CHAMBERS
MONDAY, October 13, 2008
3:45 P.M.**

- A. Review of Agenda
- B. Discussion of City Council 2009 meeting dates
- C. Executive Session:
Pending Litigation





COUNCIL AGENDA, CITY OF COUNCIL BLUFFS, IOWA
REGULAR MEETING OCTOBER 13, 2008 7:00 P.M.
COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL
209 PEARL STREET

OFFICE OF:
CITY CLERK
(712) 328-4616

AGENDA

1. PLEDGE OF ALLEGIANCE

2. CALL TO ORDER

3. PROCLAMATION

Lights On! Afterschool Event Day

4. CONSENT AGENDA

- A. Approval of agenda and tape recording of this proceeding be incorporated into official minutes
- B. Reading, correction and approval of minutes of the September 22, 2008 regular Council meeting

5. PUBLIC HEARINGS:

- A. Resolution 08-300, approving the plans, specification, form of contract and cost estimate for the US 275/Missouri River Stormwater Pump Station
- B. Resolution 08-301, to vacate and to dispose of part of 24th Avenue right-of-way lying west of South 19th Street along with part of South 20th Street lying South of 24th Avenue and the North ½ of both North/South alleys in Block 37, Railroad Addition, City of Council Bluffs, Pottawattamie County, Iowa
- C. Resolution 08-302, authorizing the vacation of a 5,676 square foot portion of 24th Avenue right-of-way lying West of South 24th Street, City of Council Bluffs, Pottawattamie County, Iowa
- D. Resolution 08-303 authorizing the vacation of a 5,950 square foot portion of 26th Avenue right-of-way lying West of South 24th Street, City of Council Bluffs, Pottawattamie County, Iowa
- E. Resolution 08-304, authorizing the disposal of City property by granting a partial release of a sanitary sewer easement on land described as Lot 10, the Marketplace Subdivision
- F. Resolution 08-305, authorizing release of the easements retained on property vacated and conveyed by Ordinance No. 3108, passed on November 13, 1944, and approved on December 4, 1944
- G. Resolution 08-306, granting final plat approval for a subdivision to be known as Franklin Heights Subdivision
- H. Resolution 08-307, authorizing the disposal of certain City property by granting an underground electric easement to MidAmerican Energy
- I. Ordinance 6012, repealing Chapters 15.01, 15.02, 15.27 of the Municipal Code (Zoning Ordinance) and adopt new Chapter 15.01 'Title, Purpose and Intent', new Chapter 15.02 'Administration and Enforcement' and new Chapter 15.27 'zoning Districts' of the Municipal Code (Zoning Ordinance)

6. ORDINANCES ON SECOND READING:

- A. Ordinance 6013, amending Ordinance Nos. 5607 and 5905, providing the general property taxes levied and collected each year on all property located within the amended Mid-America Center



Urban Renewal Area of the City of Council Bluffs, County of Pottawattamie, State of Iowa, by and for the benefit of the State of Iowa, City of Council Bluffs, County of Pottawattamie, Council Bluffs Community School District, and other taxing districts, be paid to a special fund for payment of principal and interest on loans, monies advanced to and indebtedness, including bonds issued or to be issued, incurred by said City in connection with the amended Mid-America Center Urban Renewal Redevelopment Project

7. RESOLUTIONS:

- A. Resolution 08-261, approving voluntary annexation of approximately 230 acres abutting the southeast corporate boundary
- B. Resolution 08-281, granting preliminary plan approval for a 10-lot commercial subdivision to be known as Southtowne
- C. Resolution 08-282, adopting a Planned Commercial Development Plan for a subdivision to be known as Southtowne, located at the northwest corner of Veterans Memorial Highway and South Expressway
- D. Resolution 08-292, modifying the exemption from taxation of the improvements made to real property for businesses making certain capital investment and job creation/retention levels within Enterprise Zone-1
- E. Resolution 08-295, awarding the vehicle towing and storage contract
- F. Resolution 08-296, authorizing additional Enterprise Zone tax abatement benefits to Omaha Standard Incorporated
- G. Resolution 08-299, authorizing the Mayor to approve the Amendment to the Development Agreement between Pottawattamie County Development Corporation (PCDC) and Broadway Ventures, LLC
- H. Resolution 08-308, authorizing the Mayor to acquire property located north of 23rd Avenue between South 19th and South 21st Streets as part of the Playland Park land mitigation project
- I. Resolution 08-309, authorizing a joint application to the Iowa Department of Economic Development by the Council Bluffs Enterprise Zone Commission and Municipal Homes, Inc., for Enterprise Zone benefits
- J. Resolution 08-310, authorizing a joint application to the Iowa Department of Economic Development by the Council Bluffs Enterprise Zone Commission and Welcomes Homes, Inc., for Enterprise Zone benefits
- K. Resolution 08-311, authorizing submission of Amendment #1 to EZ Agreement 08-HEZ-024 to the Iowa Department of Economic Development by the Council Bluffs Enterprise Zone Commission and Porter Homes, Inc., for Enterprise Zone benefits
- L. Resolution 08-312, authorizing a joint application to the Iowa Department of Economic Development by the Council Bluffs Enterprise Zone Commission and BP Quality Homes LLC for Enterprise Zone benefits
- M. Resolution 08-313, authorizing the Mayor to execute a contract with Howard R. Green Company for consultant services for the two 2008 U.S. Environmental Protection Agency (EPA) Brownfields assessment grants for the South Main area.
- N. Resolution 08-314, accepting the completion of the Valley View Greenway Trail project and directing the Director of Finance to release the retainage of \$7,756.00 in 30 days

- O. Resolution 08-315, accepting the work of Swain Construction in connection with the 8th Avenue North curb line and gutter replacement and authorizing the Finance Director to issue a City check in the amount of \$1,700.72
- P. Resolution 08-316, authorizing the Mayor and City Clerk to execute an agreement with Bluffs Electric, Inc., for the US Highway 275 Street Lighting project
- Q. Resolution 08-317, filling the Assistant City Attorney I position in the City Legal Department

8. MAYOR APPOINTMENTS

- A. Appointments to Civil Rights Commission
 Appoint Denise Carle; term to end August 1, 2010
- B. Appointments to the Library Board of Trustees
 Appoint James Watson; term to end July 1, 2010

9. RECEIVE AND FILE ITEMS:

- A. Six Notices of Claim/Loss
- B. One offer to buy City property
- C. Two Notices of Voluntary Settlement, Mall of the Bluffs Partners LLC

10. APPLICATIONS FOR PERMITS AND CANCELLATIONS:

- A. Application for temporary liquor license – Lutheran Family Services, 300 West Broadway
- B. Application for Iowa retail cigarette/tobacco permit – K's Tobacco N Phones Plus, 3540 West Broadway

11. CITIZENS REQUEST TO BE HEARD:

12. ADJOURNMENT

RECORD OF PROCEEDINGS

CALL TO ORDER	A regular meeting of the Council Bluffs City Council was called to order by Mayor Pro Tem Scott A. Belt, Council Member on Mon., September 22, 2008 at 7:00 p.m. Thomas P. Hanafan, Mayor, was touring Iowa cities as an Iowa Great Places board member.
ATTENDANCE	Council Members present: Scott Belt, Matt Schultz and Matt Walsh. Council Members Absent: Darren Bates and Lynne Branigan. Staff present: Richard Wade, City Attorney and Marcia L. Worden, Deputy City Clerk.
CONSENT AGENDA	Walsh and Schultz moved and seconded approving the consent agenda. Walsh and Schultz moved and seconded the deletion of Items 6B and 6C. Unanimous. Vote on agenda as amended. Unanimous.
PUBLIC HEARINGS Resolution 08-278	Held Public Hearing regarding Resolution 08-278, granting final plat approval for Roth's Hillside Second Addition, Replat Two. Walsh and Schultz moved and seconded concurrence with staff's recommendation approving Resolution 08-278. Heard from Mark Westergard, 330 North 117 th Street, Omaha, Nebraska, with E & A Consulting Group. Unanimous.
Resolution 08-279	Held Public Hearing regarding Resolution 08-279, authorizing disposal of City property by granting an easement to Northern Natural Gas. Schultz and Walsh moved and seconded approval of Resolution 08-279. Unanimous.
Resolution 08-280	Held Public Hearing regarding Resolution 08-280, determining an area of the City to be an economic development area and that the rehabilitation, conservation, redevelopment, development, or a combination thereof, of such area is necessary in the interest of the public health, safety or welfare of the residents of the City; designating such area as appropriate for an urban renewal project; and adopting Amendment No. 3 to the Mid-America Center (MAC) Urban Renewal Plan (f/k/a MARCC Urban Renewal Plan). Schultz and Walsh moved and seconded approval of Resolution 08-280. Unanimous.
ORDINANCE ON FIRST READING Ordinance 6012	Belt and Schultz moved and seconded approval of Ordinance 6012, amending Title 15 "Zoning" by repealing Chapters 15.01 "Title and Purpose", 15.02 "Administration and Implementation", and 15.27 "Board of Adjustment" in their entirety; and by enacting new Chapters 15.01 "Title, Purpose and Intent", 15.02 "Administration and Enforcement" and 15.27 "Zoning Districts" and setting a Public Hearing for October 13, 2008 at 7:00 p.m. Unanimous.
Ordinance 6013	Belt and Schultz moved and seconded approval of Ordinance 6013, amending Ordinance Nos. 5607 and 5905, providing that general property taxes levied and collected each year on all property located within the amended Mid-America Center (MAC) Urban Renewal Area (f/k/a MARCC Urban Renewal Area) of the City of Council Bluffs, County of Pottawattamie, State of Iowa, by and for the benefit of the State of Iowa, City of Council Bluffs, County of Pottawattamie, Council Bluffs Community School District, and other taxing districts, be paid to a special fund for payment of principal and interest on loans, monies advanced to and indebtedness, including bonds issued or to be issued, incurred by said City in connection with the amended Mid-America Center (MAC) Urban Renewal Redevelopment Project. Unanimous.

RECORD OF PROCEEDINGS

RESOLUTIONS

Resolution 08-203	Walsh and Schultz moved and seconded the denial of Resolution 08-203, vacating and disposing of 24 th Avenue right-of-way between South 18 th and South 19 th Streets and abutting Lot 6, Wyatt's 2 nd Subdivision and abutting Blocks 21 and 36, Railroad Addition. Heard from Margarito Moreno, 2403 South 19 th Street, requesting the east 126 feet of South 24 th Avenue be vacated. Walsh and Schultz withdrew original motion, moved and seconded postponement of Resolution 08-203 until October 27, 2008 at 7:00 p.m. Unanimous.
Resolution 08-283	Belt and Schultz moved and seconded approval of Resolution 08-283, directing the City Clerk to certify the Solid Waste/Nuisance Abatements to the Pottawattamie County Treasurer to be collected in the same manner as a property tax. Unanimous.
Resolution 08-284	Belt and Walsh moved and seconded approval of Resolution 08-284, directing the City Clerk to certify the Weed Abatements to the Pottawattamie County Treasurer to be collected in the same manner as a property tax. Unanimous.
Resolution 08-285	Belt and Schultz moved and seconded approval of Resolution 08-285, accepting the completion of the Emil Pavich Trail Project and directing the Director of Finance to issue a City check in the amount of \$14,727.98 in 30 days. Unanimous.
Resolution 08-286	Belt and Schultz moved and seconded approval of Resolution 08-286, approving the Street Finance Report be submitted to the Iowa Department of Transportation for fiscal year ending June 30, 2008. Unanimous.
Resolution 08-287	Walsh and Belt moved and seconded approval of Resolution 08-287, authorizing the Mayor to execute an agreement between the City of Council Bluffs and the University of Nebraska at Omaha on behalf of the Neighborhood Center, the City shall provide a total of \$80,000 to be paid in four equal annual payments of \$20,000 beginning FY2009-2010 and ending FY2012-2013. Unanimous.
Resolution 08-288	Walsh and Belt moved and seconded approval of Resolution 08-288, authorizing the Mayor to acquire property located northeast of North 13 th Street and Avenue B as part of the Playland Park Land Mitigation Project. Unanimous.
Resolution 08-289	Belt and Walsh moved and seconded approval of Resolution 08-289, repealing the amended North 16 th Street and Avenue G Urban Renewal Plan and Area. Unanimous.
Resolution 08-290	Walsh and Belt moved and seconded approval of Resolution 08-290, repealing the development agreement and minimum assessment agreement between the City of Council Bluffs and Artspace Projects, Inc., for the redevelopment of 1000 South Main Street. Unanimous.
Resolution 08-291	Belt and Walsh moved and seconded approval of Resolution 08-291, authorizing a joint application to the Iowa Department of Economic Development (IDED) by the Council Bluffs Enterprise Zone Commission and Harvester Artist Lofts, L.P., (successor to Artspace Projects, Inc.) for Amendment No. 1 to EZ Agreement No. 08-HEZ-020. Unanimous.

RECORD OF PROCEEDINGS

- Resolution 08-293 Walsh and Belt moved and seconded approval of Resolution 08-293, amending the use of B-08 and B-09 Community Development Block Grant (CDBG) Funds and directing the Mayor to submit an amended 2008 and 2009 Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD). Unanimous.
- Resolution 08-294 Belt and Schultz moved and seconded approval of Resolution 08-294, approving the use of 2009 Home Investment Partnership (HOME) and 2009 American Dream Down Payment Initiative (ADDI) Funds and directing the Mayor to submit the annual plan to the City of Omaha and the U.S. Department of Housing and Urban Development (HUD). Unanimous.
- Resolution 08-295 Schultz and Walsh moved and seconded postponement of Resolution 08-295 to October 13, 2008 at 7:00 p.m., to review breakdown totals in regards to the vehicle towing and storage contract. Heard from Brad Cain, 1229 Westside Drive and Gregory Smythe, 1229 North Broadway, co-owners of Jay & B Garage & Towing, in opposition of Arrow Towing receiving contract. Heard from Brad Arrowsmith, 379 Kenmore Avenue, owner of Arrow Towing, prepared to accept the towing and storage contract. Unanimous.
- Resolution 08-297 Belt and Schultz moved and seconded approval of Resolution 08-297, intent to dispose of certain City property by granting an underground electric easement to MidAmerican Energy and setting a Public Hearing for October 13, 2008 at 7:00 p.m. Unanimous.
- Resolution 08-298 Belt and Walsh moved and seconded approval of Resolution 08-298, approving the first amendment to the arena lease between the City of Council Bluffs and the American Hockey Group, LLC. Unanimous.
- Resolution 08-299 Walsh and Schultz moved and seconded discussion only regarding Resolution 08-299, authorizing the Mayor to execute an amendment to the development agreement between Pottawattamie County Development Corporation (PCDC) and Broadway Ventures, LLC. Council Member Belt shared he was opposed to the process used. Walsh and Belt moved and seconded the postponement of Resolution 08-299 until October 13, 2008 at 7:00 p.m. Unanimous.
- RECEIVE AND FILE ITEMS** Walsh and Schultz moved and seconded approval of Receive and File Items 7A thru 7D: 7A. Cash Balance Statement, August 31, 2008; 7B. List of Bills, August 31, 2008; 7C. Iowa Department of Transportation Correspondence; 7D. Two Notices of Right of Redemption. Unanimous.
- APPLICATIONS FOR PERMITS & CANCELLATIONS** Walsh and Belt moved and seconded approval of Liquor License Permit Applications regarding Item 8A (a-n): a. Aldi, 3135 Manawa Centre Drive; b. Ampride, 4040 South Expressway; c. Brewski's Beverage, 726 Creek Top; d. Council Bluffs Travel Center, 3210 7th Street; e. G's Phillips 66, 3500 Ave. A; f. Hard Luck Saloon, 628 16th Avenue; g. Jack Daddy's, 2327 South 24th Street; h. Mo Fish, 2403 Nash Boulevard; i. NYX, 144 West Broadway; j. Mario's Bar & Laundry, 719 South Main Street; k. Quarthouse Lounge, 107 Pearl Street; l. Railway Inn, 115 South 12th Street; m. Shenanigan's, 800 North 8th Street; n. VFW, 28 South 29th Street. Unanimous.

RECORD OF PROCEEDINGS

ADJOURNMENT

Walsh and Belt moved and seconded adjournment at 8:09 p.m.
Unanimous.

The tape recording of this proceeding, though not transcribed, is part of the record of each respective action of the Council. The tape recording of this proceeding is incorporated into these official minutes of this Council meeting as if they were transcribed herein.

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, Deputy City Clerk

City of Council Bluffs Iowa

PROCLAMATION

- WHEREAS:** Iowa has a strong commitment to providing the best educational and recreational opportunities possible to its children; and
- WHEREAS:** more than 28 million children in the United States have parents who work outside the home and more than 14.3 million children have no place to go after school; and
- WHEREAS:** Iowa is one of this country's leaders in the percentage of parents who work outside the home; and
- WHEREAS:** parents' work week exceeds their children's school week by as much as 25 hours; and
- WHEREAS:** 75 percent of sixth graders and 85 percent of eighth graders spend at least one hour unsupervised each day, according to the 2006 Iowa Youth Survey; and
- WHEREAS:** Afterschool programs:
- Provide safe, challenging, and engaging learning experiences that help children develop social, emotional, physical and academic skills.
 - Support working families by ensuring their children are safe and productive after the regular school day ends.
 - Build stronger communities by involving students, parents, business leaders and adult volunteers in the lives of young people, thereby promoting positive relationships among youth, families and adults.

NOW, THEREFORE, I
Thomas P. Hanafan, Mayor
Of the
City of Council Bluffs, Iowa
Do hereby proclaim October 16, 2008

Lights On! Afterschool Event Day

In the City of Council Bluffs, Iowa and urge all citizen to take due note of the observance.

In witness thereof, I have caused my signature and seal of the City of Council Bluffs, Iowa to be affixed hereto this 13^h day of October, in the year Two Thousand and Eight.

Thomas P. Hanafan, Mayor

COUNCIL COMMUNICATION

Department: Public Works
Case/Project No.: FY07-04C
Applicant

Ordinance No.
Resolution No. 08-300

Date: October 13, 2008

SUBJECT/TITLE

After the Public Hearing council consideration of a resolution approving the plans and specifications and authorizing the City Clerk to advertise for bids setting November 12, 2008 at 10:00 a.m. as the date and time for the bid opening for US 275/Missouri River Stormwater Pump Station.

BACKGROUND/DISCUSSION

- IDOT plans to reconstruct US 275 from the Missouri River to I-29 in 2006-2009.
- NDOR and IDOT plan to reconstruct the US 275 Missouri River Bridge starting in 2008.
- There is an existing pump station at the river levee on the north side of the Highway. It is 35 years old and is in conflict with roadway widening.
- Pump station relocation is scheduled for 2008 and 2009
- The new pump station will be upgraded and modernized. Service area includes both sides of US 275 from Missouri Levee to Twin City Drive.
- The first part of construction is estimated at \$80,000 for piping and structural efforts and is contracted through IDOT agreement.
- The second part of construction is estimated at \$145,000 for Electrical/Mechanical efforts and is the project which is the subject of this resolution.
- Project is FY07-04C in the CIP and will be funded by West Lewis #35 and Sieck #32 drainage district funds.
- This is a rebid of the US 275/Missouri River Stormwater Pump Station.
- Project schedule is for a Public Hearing, October 13; Letting, November 12; Contract Award, November 24 and construction completion Spring 2009.

RECOMMENDATION

Approval of this resolution.

5A

dh

R E S O L U T I O N

No. 08-300

**RESOLUTION APPROVING THE PLANS, SPECIFICATION,
FORM OF CONTRACT AND COST ESTIMATE FOR THE
US 275/MISSOURI RIVER STORMWATER PUMP STATION
FY07-04C**

WHEREAS, the plans, specification, form of contract and cost estimate are on file in the office of the City Clerk of the City of Council Bluffs, Iowa for the US 275/Missouri River Stormwater Pump Station; and

WHEREAS, A Notice of Public Hearing was published as required by law, and a public hearing was held on October 13, 2008.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the plans, specifications, form of contract and cost estimate are hereby approved for the US 275/Missouri River Stormwater Pump Station and the City Clerk is hereby authorized to advertise for bids for said project.

**ADOPTED
AND
APPROVED October 13, 2008**

Thomas P. Hanafan, Mayor

ATTEST:

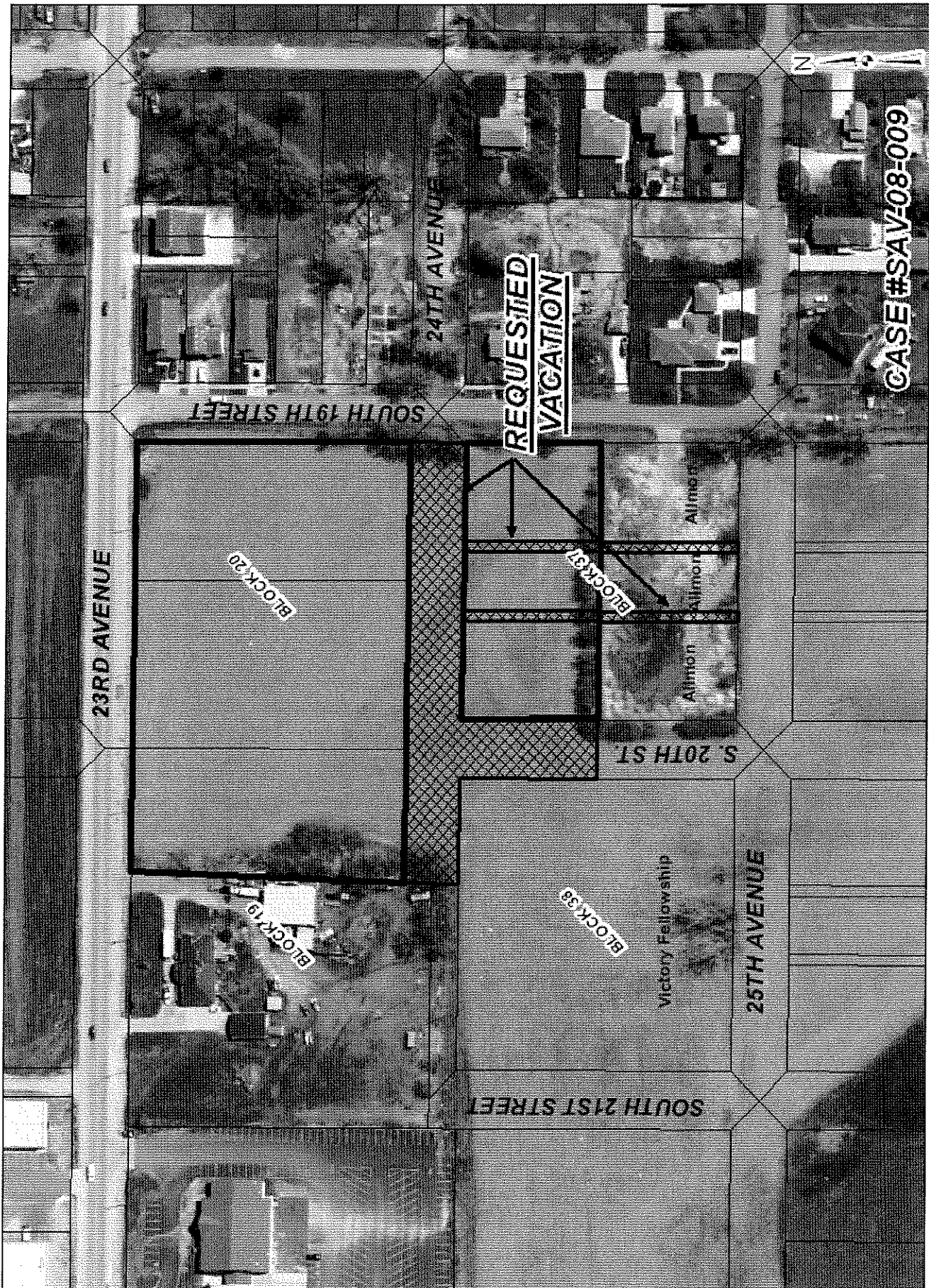
Judith Ridgeley, City Clerk

Council Communication

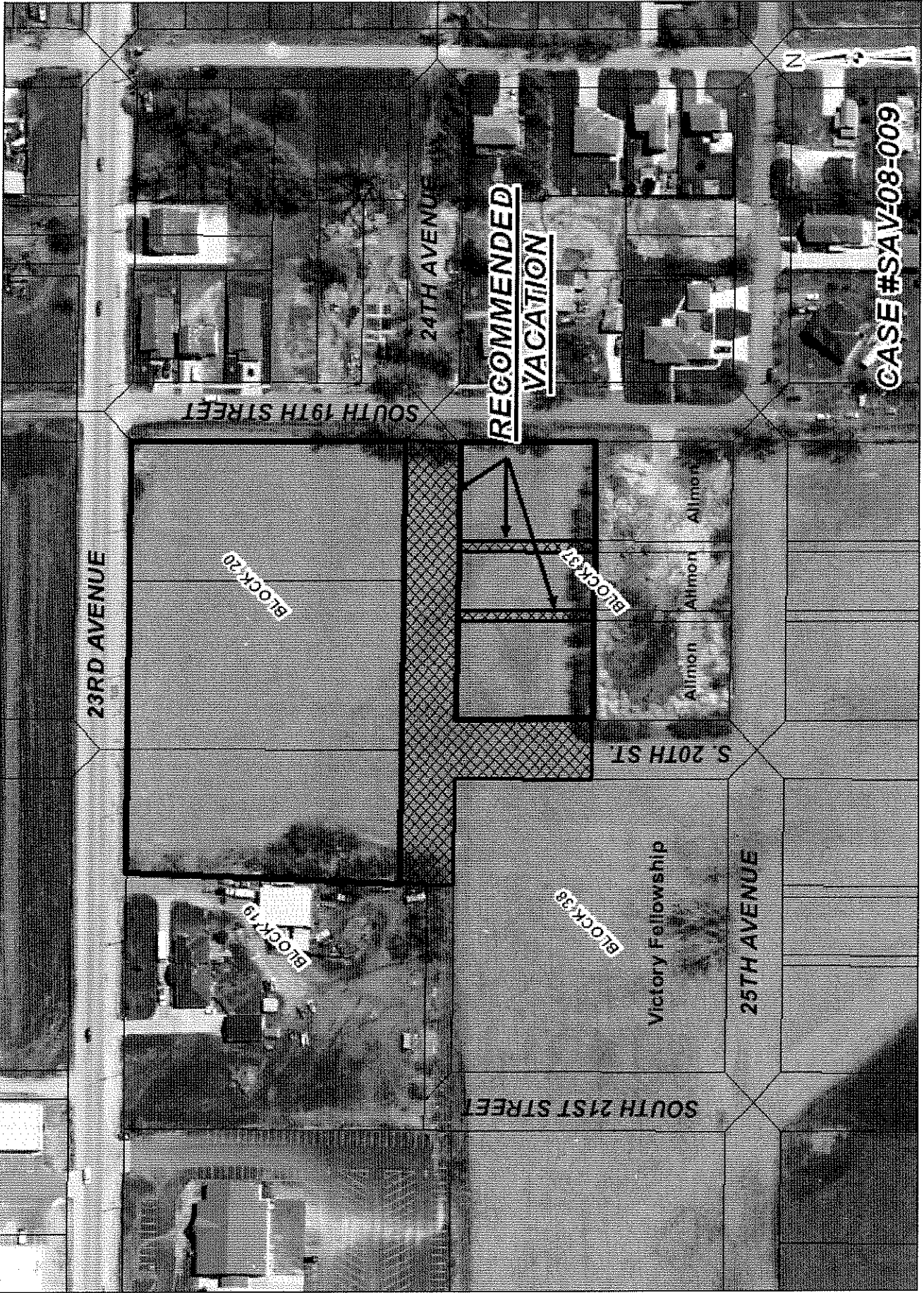
Department: Community Development Case #SAV-08-009 Applicant: Municipal Homes, Inc. 515 south 6 th Street Council Bluffs, IA 51503	Resolution of Intent No. <u>08-272</u> Resolution to Dispose No. <u>08-301</u>	City Council: 9/22/08 Planning Commission: 09/09/08 Set Public Hearing: 09/22/08 Public Hearing: 10/13/08
Subject/Title Request of Municipal Homes, Inc, 515 South 6 th Street, Council Bluffs, IA 51503, to vacate the following: 1. Part of 24 th Avenue right-of-way running west from South 19 th Street for 516 feet and abutting Blocks 20 and 37 and part of Blocks 19 and 38, Railroad Addition. 2. Part of South 20 th Street right-of-way running south from 24 th Avenue for 165 feet and abutting part of Blocks 37 and 38, Railroad Addition. 3. Both north/south alleys in Block 37, Railroad Addition lying between South 19 th and South 20 th Streets, from 24 th to 25 th Avenue.		
Background Municipal Homes, Inc. has entered into an agreement with R W F, LLC to purchase the west part of Block 19 and all of Block 20, including vacated rights-of-way, along with the north half of Block 37, Railroad Addition. Municipal Homes intends on developing a project that will provide 40 units of public rental housing along with approximately 10 single family lots along South 19 th Street. They are asking for vacation of the above mentioned right-of-way, all of which is unimproved, so they can acquire it and all of the right-of-way can be incorporated into the development. The project is contingent upon approval of a low income housing tax credit application, which will be submitted in October, 2008. Construction is planned for the fall of 2009. John Allmon owns the south half of Block 37. He is opposed to the vacation and unwilling to accept his portion of alley right-of-way. Victory Fellowship Pentecostal owns Block 38. No response has been received from Victory Fellowship regarding the requested vacations. There are no utilities within any of the subject right-of-way.		
Recommendation The Community Development Department recommends vacating part of 24 th Avenue right-of-way running west from South 19 th Street for 516 feet and abutting Blocks 20 and 37 and part of Blocks 19 and 38, Railroad Addition; part of South 20 th Street right-of-way running south from 24 th Avenue for 165 feet and abutting part of Blocks 37 and 38, Railroad Addition and <u>the North 1/2 only of</u> both north/south alleys in Block 37, Railroad Addition lying between South 19 th and South 20 th Streets, from 24 th to 25 th Avenue subject to Municipal Homes acquiring and re-platting the site. Public Hearing Rob Stephens, Municipal Housing Agency, representing the applicant, appeared before the Planning Commission in favor of the request. No one appeared in opposition. Planning Commission Recommendation The Planning Commission recommends vacating part of 24 th Avenue right-of-way running west from South 19 th Street for 516 feet and abutting Blocks 20 and 37 and part of Blocks 19 and 38, Railroad Addition; part of South 20 th Street right-of-way running south from 24 th Avenue for 165 feet and abutting part of Blocks 37 and 38, Railroad Addition and <u>the North 1/2 only of</u> both north/south alleys in Block 37, Railroad Addition lying between South 19 th and South 20 th Streets, from 24 th to 25 th Avenue subject to Municipal Homes acquiring and re-platting the site. VOTE: AYE 9 NAY 1 ABSTAIN 0 ABSENT 1 Motion: Carried		
Attachments: Maps showing requested and recommended right-of-way vacation and proposed project site plan. Prepared By: Rebecca Sall, Planning Technician, Community Development Department		

5 B

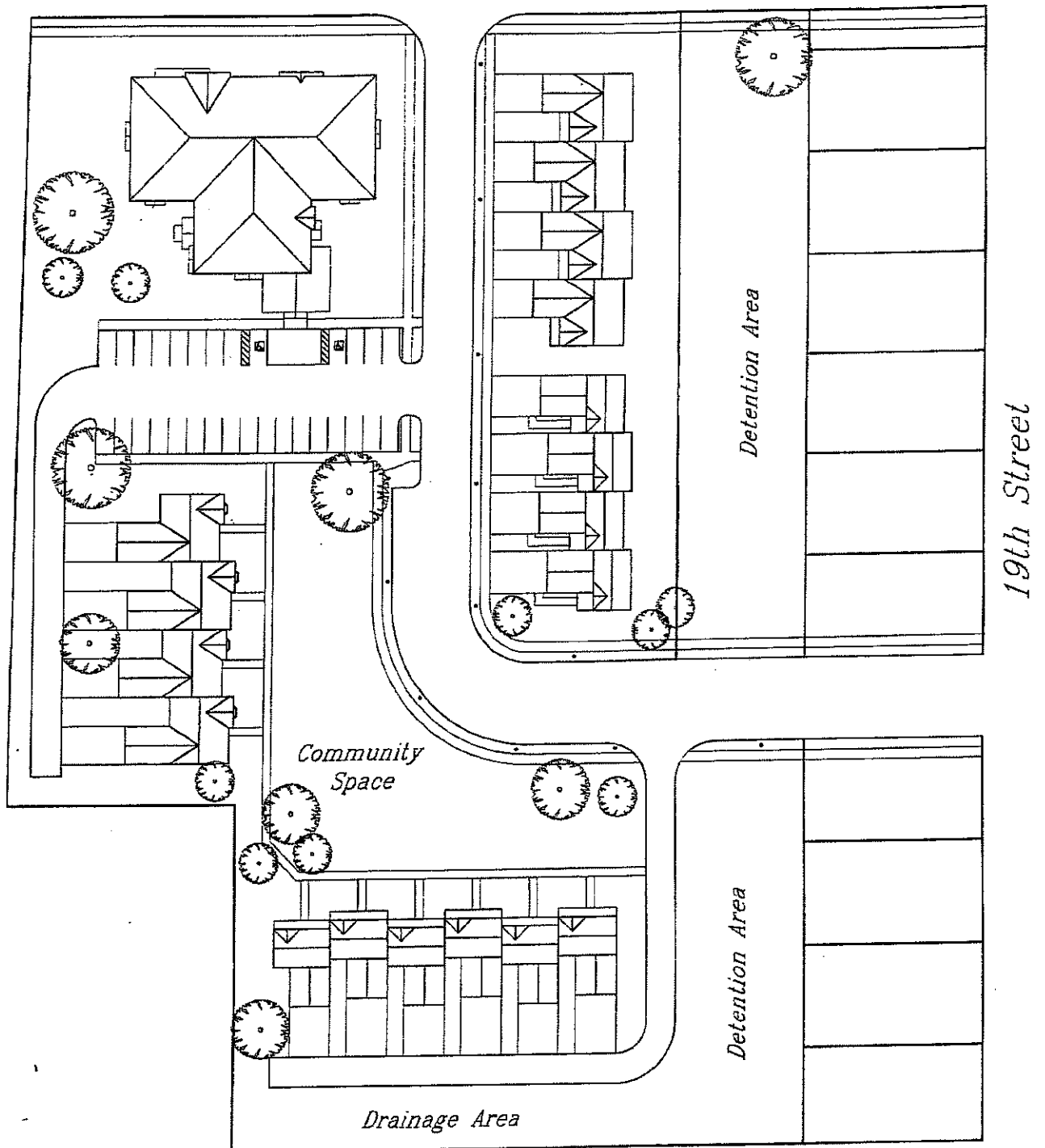




CASE#SAV-08-009



23rd Avenue



PROPOSED
SITE PLAN - OPTION #2
SCALE: 1" = 70'-0"

1
C-2

INTER-OFFICE MEMO

TO: Judith H. Ridgeley, City Clerk

FROM: Donald D. Gross, Director
Community Development Department

DATE: September 30, 2008

SUBJECT: Case #SAV-08-009 – Municipal Homes, Inc.

Attached is a letter from Victory Fellowship Church regarding the vacation of part of South 20th Street and part of 24th Avenue which was requested by MHI. Part of the vacation abuts the Victory Fellowship Church property to the west. This letter was received on September 29; therefore, the church's position on the vacation request was not previously addressed in the council communication from this office. MHI has requested the vacation subject to all of the right-of-way being conveyed to MHI for the development of a rental housing project.

Please make this letter available to the City Council prior to the October 13th meeting.

cc: MHI

DDG/RLS



September 29, 2008

Don Gross
Council Bluffs Community Development Dept
209 Pearl St.
Council Bluffs, IA 51503

HAND DELIVERED

Re: Case #SAV-08-009

Dear Don:

Per our recent conversation about the application to vacate various alleys and right-of-ways abutting our property, we would like to purchase a portion of those areas. We received our letter about this application on Friday, September 26 which obviously, was past the deadline for our request and the public hearing. Nevertheless, we would like to request the purchase of:

1. One-half of the vacated portion of S. 20th Street; and
2. One-half of the vacated portion of 24th Ave.

It is my understanding that there will be a vote on this application in October. Please let us know what is decided and what we need to do at that point.

Thank you for your consideration of our request, and if you have any questions, please let me know.

Sincerely,

PASTOR LONNIE R. PARTON

COUNCIL BLUFFS
COMMUNITY DEVELOPMENT DEPT.

SEP 29 2008

RECEIVED

RESOLUTION NO. 08-301

A RESOLUTION TO VACATE AND TO DISPOSE OF PART OF 24TH AVENUE RIGHT-OF-WAY LYING WEST OF SOUTH 19TH STREET ALONG WITH PART OF SOUTH 20TH STREET LYING SOUTH OF 24TH AVENUE AND THE NORTH 1/2 OF BOTH NORTH/SOUTH ALLEYS IN BLOCK 37, RAILROAD ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: Part of 24th Avenue right-of-way running west from the west line of South 19th Street for 516 feet and abutting Blocks 20 and 37 and part of Blocks 19 and 38, Railroad Addition along with part of South 20th Street right-of-way running south from the south line of 24th Avenue for 165 feet and abutting part of Blocks 37 and 38, Railroad Addition and also the North 1/2 of both north/south alleys in Block 37, Railroad Addition, City of Council Bluffs, Pottawattamie County, Iowa, is of no benefit to the public and should be vacated; and

WHEREAS, pursuant to Iowa Code Section 354.23, the City Council declares its intent to dispose of this City right-of-way by conveying and quitclaiming all of its right, title, and interest in it to the abutting property owner(s) upon acquisition and re-platting of the site by Municipal Homes, Inc.; and

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the above-described city right-of-way is hereby vacated and conveyed upon acquisition and re-platting of the site by Municipal Homes, Inc. as follows:

Municipal Homes, Inc. and all successors in interest: That vacated part of 24th Avenue right-of-way running west from the west line of South 19th Street for 516 feet and abutting Blocks 20 and 37 and part of Blocks 19 and 38, Railroad Addition along with that vacated part of South 20th Street right-of-way running south from the south line of 24th Avenue for 165 feet and abutting part of Blocks 37 and 38, Railroad Addition and also the vacated North 1/2 of both north/south alleys in Block 37, Railroad Addition.

BE IT FURTHER RESOLVED

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute a City deed conveying the City's interest in the above-described street right-of-way upon acquisition and re-platting of the site by Municipal Homes, Inc., and;

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED

AND

APPROVED: October 13, 2008

Thomas P. Hanafan, Mayor

ATTEST:

Judith H. Ridgeley, City Clerk

STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

On this _____ day of _____, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Thomas P. Hanafan and Judith H. Ridgeley, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Thomas P. Hanafan and said Judith H. Ridgeley, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Notary Public in and for said State

City Planning Commission

Department: Community Development Case #SAV-08-010 Applicant: Community Development Department	Resolution of Intent No. _____ Resolution to Dispose No. <u>08-302</u>	City Council: 09/22/08 Planning Commission: 09/09/08 Set Public Hearing: 09/22/08 Public Hearing: 10/13/08
Subject/Title Request of the Community Development Department to vacate a 5,676 square foot portion of 24 th Avenue right-of-way lying west of South 24 th Street and abutting part of Block 15 and part of Block 42, Railroad Addition along with a 5,950 square foot portion of 26 th Avenue right-of-way lying west of South 24 th Street and abutting part of Block 43 and part of Block 70, Railroad Addition as shown on the attached map.		
Background 24th Avenue Vacation The City of Council Bluffs currently owns the parcels to the north and south of the subject portion of 24 th Avenue which essentially represent the portions of right-of-way and previous City acquisitions which are not necessary for South 24 th Street reconstruction. The City intends to assemble these parcels as one and convey them to a development interest which is proposing a retail center on the properties to the west and south of this location. 26th Avenue Vacation The Sapp Brothers property lying to the north and south of 26 th Avenue is under option by a development interest. The intent is to vacate this portion of 26 th Avenue and convey with the property as discussed above. Black Hills Energy (formerly Aquila) has a gas main within the subject portion of 26 th Avenue. An easement will need to be retained. MidAmerican Energy needs to maintain easements for utility access for street lighting along the new route through both portions of 24 th and 26 th Avenues.		
Recommendation The Community Development Department recommends vacating a 5,676 square foot portion of 24 th Avenue right-of-way lying west of South 24 th Street and abutting part of Block 15 and part of Block 42, Railroad Addition along with a 5,950 square foot portion of 26 th Avenue right-of-way lying west of South 24 th Street and abutting part of Block 43 and part of Block 70, Railroad Addition as shown on the attached map, subject to an easement being retained in these portions of 24 th and 26 th Avenues. The City shall retain ownership of said right-of-way until the aforementioned parcels are conveyed to the said development interest. Public Hearing Gayle Malmquist appeared before the Planning Commission in favor of the request. Scott Harold, representing Sapp Brothers appeared in opposition. Planning Commission Recommendation The Planning Commission recommends vacating a 5,676 square foot portion of 24 th Avenue right-of-way lying west of South 24 th Street and abutting part of Block 15 and part of Block 42, Railroad Addition along with a 5,950 square foot portion of 26 th Avenue right-of-way lying west of South 24 th Street and abutting part of Block 43 and part of Block 70, Railroad Addition as shown on the attached map, subject to an easement being retained in these portions of 24 th and 26 th Avenues. The vacation shall not become effective until the City receives proof of acquisition by said development. The City shall retain ownership of said right-of-way until the aforementioned parcels are conveyed to the said development interest. VOTE: AYE 10 NAY 0 ABSTAIN 0 ABSENT 1 Motion: Carried		
Attachments: Map showing requested right-of-way vacation Prepared By: Rebecca Sall, Planning Technician, Community Development Department		



PROPOSED
VACATION

23RD AVENUE

SOUTH 24TH STREET

CASE #SAV-08-010

RESOLUTION NO. 08-302

A RESOLUTION AUTHORIZING THE VACATION OF A 5,676 SQUARE FOOT PORTION OF 24TH AVENUE RIGHT-OF-WAY LYING WEST OF SOUTH 24TH STREET, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: A 5,676 square foot portion of 24th Avenue right-of-way lying west of South 24th Street and abutting part of Block 15 and part of Block 42, Railroad Addition as described on the attached plat of survey, City of Council Bluffs, Pottawattamie County, Iowa, is of no benefit to the public and should be vacated with the City retaining ownership of said right-of-way.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the above-described city right-of-way is hereby vacated and is subjected to the reservation of a permanent and perpetual utilities easement of way; and

BE IT FURTHER RESOLVED

That the City of Council Bluffs will retain ownership of said vacated right-of-way.

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and any attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED

AND

APPROVED: October 13, 2008

Thomas P. Hanafan, Mayor

ATTEST:

Judith H. Ridgeley, City Clerk

STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

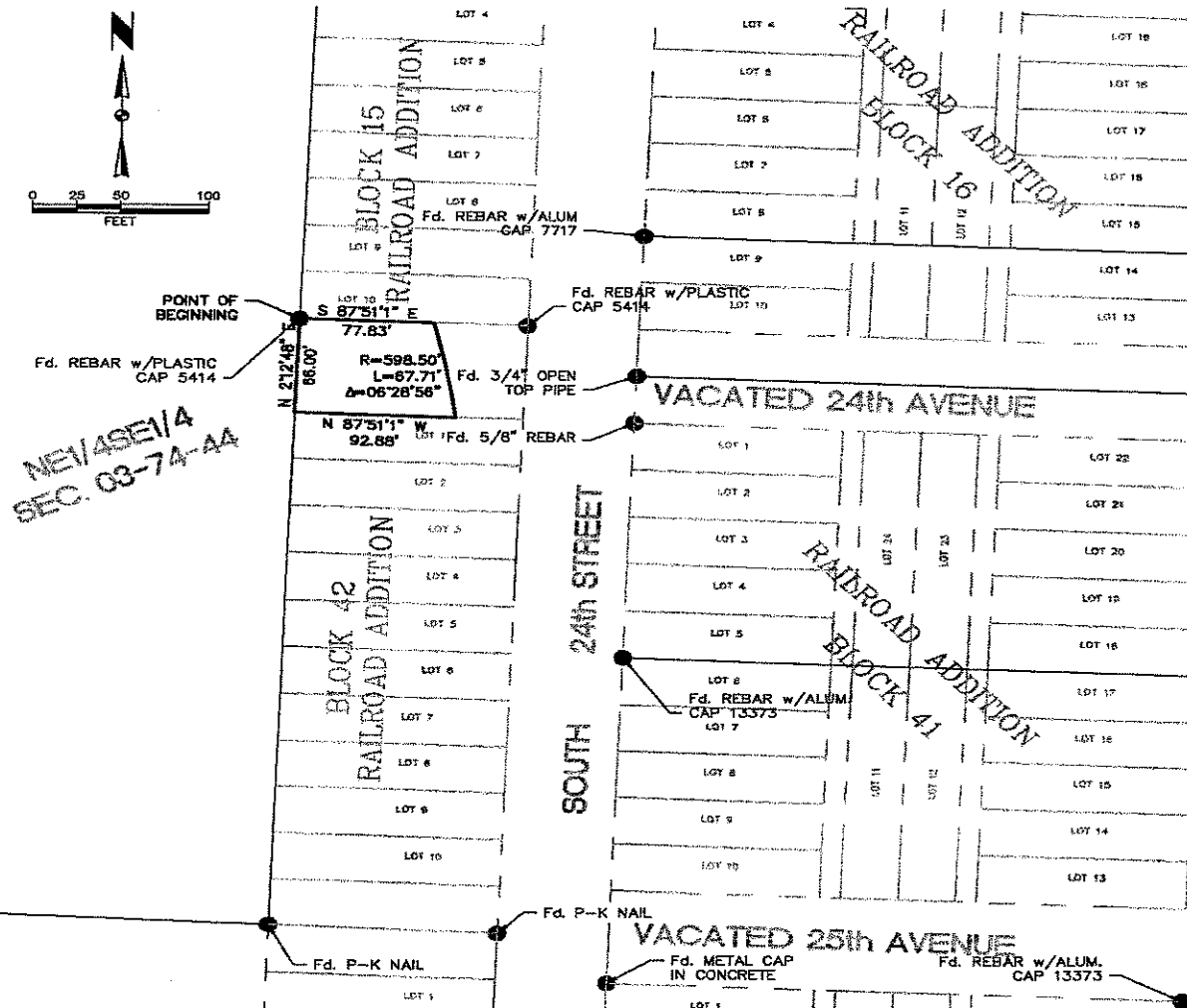
On this _____ day of _____, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Thomas P. Hanafan and Judith H. Ridgeley, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Thomas P. Hanafan and said Judith H. Ridgeley, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Notary Public in and for said State

Planning Case #SAV-08-010
(24th Avenue)

"PLAT OF SURVEY"

24th AVENUE VACATION



LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF 24th AVENUE BETWEEN BLOCKS 15 AND 42 IN RAILROAD ADDITION TO THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID BLOCK 15;

THENCE ALONG THE SOUTH LINE OF SAID BLOCK 15, SOUTH 87 DEGREES 51 MINUTES 01 SECOND EAST, 77.83 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, TO WHICH POINT A RADIAL LINE BEARS NORTH 76 DEGREES 07 MINUTES 40 SECONDS EAST, 598.50 FEET;

THENCE SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 06 DEGREES 28 MINUTES 56 SECONDS, 67.71 FEET TO A POINT ON THE NORTH LINE OF SAID BLOCK 42;

THENCE ALONG SAID NORTH LINE, NORTH 87 DEGREES 51 MINUTES 01 SECOND WEST, 92.88 FEET TO A POINT ON THE WEST LINE OF SAID RAILROAD ADDITION;

THENCE ALONG SAID WEST LINE, NORTH 02 DEGREES 12 MINUTES 48 SECONDS EAST, 66.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS AN AREA OF 5,676 SQUARE FEET (0.130 ACRE), MORE OR LESS.

	I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.	
	<i>Melvin G. Samples</i> MELVIN G. SAMPLES	9-8-08 DATE
	License Number <u>10569</u> My license renewal date is December 31, <u>2008</u>	
	Pages or sheets covered by this plat: <u>SHEET 1 OF 1</u>	

LEGEND

- SET 5/8"x18" REBAR w/YELLOW PLASTIC CAP MARKED "HGM ASSOC. PLS 10569"

CONTRACT DATED _____

CONSIDERATION \$ _____

RAILROAD ADDITION

SUBDIVISION

BLOCK(S) 15 & 42

24th AVENUE

LOT(S) _____

ACQUIRED BY _____

s.f. _____

TEMPORARY EASEMENT

0 _____

s.f. _____

EXCESS RIGHT-OF-WAY

0 _____

s.f. _____

s.f. _____

POTTAWATTAMIE COUNTY

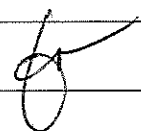
PROJECT NO. 15136-005

DATE DRAWN 09-05-08 DRAWN BY DFF

City Planning Commission

<p>Department: Community Development</p> <p>Case #SAV-08-010</p> <p>Applicant: Community Development Department</p>	<p>Resolution of Intent No. _____</p> <p>Resolution to Dispose No. <u>08-303</u></p>	<p>City Council: 09/22/08</p> <p>Planning Commission: 09/09/08</p> <p>Set Public Hearing: 09/22/08</p> <p>Public Hearing: 10/13/08</p>
Subject/Title		
<p>Request of the Community Development Department to vacate a 5,676 square foot portion of 24th Avenue right-of-way lying west of South 24th Street and abutting part of Block 15 and part of Block 42, Railroad Addition along with a 5,950 square foot portion of 26th Avenue right-of-way lying west of South 24th Street and abutting part of Block 43 and part of Block 70, Railroad Addition as shown on the attached map.</p>		
Background		
<p>24th Avenue Vacation</p> <p>The City of Council Bluffs currently owns the parcels to the north and south of the subject portion of 24th Avenue which essentially represent the portions of right-of-way and previous City acquisitions which are not necessary for South 24th Street reconstruction. The City intends to assemble these parcels as one and convey them to a development interest which is proposing a retail center on the properties to the west and south of this location.</p> <p>26th Avenue Vacation</p> <p>The Sapp Brothers property lying to the north and south of 26th Avenue is under option by a development interest. The intent is to vacate this portion of 26th Avenue and convey with the property as discussed above.</p> <p>Black Hills Energy (formerly Aquila) has a gas main within the subject portion of 26th Avenue. An easement will need to be retained.</p> <p>MidAmerican Energy needs to maintain easements for utility access for street lighting along the new route through both portions of 24th and 26th Avenues.</p>		
Recommendation		
<p>The Community Development Department recommends vacating a 5,676 square foot portion of 24th Avenue right-of-way lying west of South 24th Street and abutting part of Block 15 and part of Block 42, Railroad Addition along with a 5,950 square foot portion of 26th Avenue right-of-way lying west of South 24th Street and abutting part of Block 43 and part of Block 70, Railroad Addition as shown on the attached map, subject to an easement being retained in these portions of 24th and 26th Avenues. The City shall retain ownership of said right-of-way until the aforementioned parcels are conveyed to the said development interest.</p>		
Public Hearing		
<p>Gayle Malmquist appeared before the Planning Commission in favor of the request. Scott Harold, representing Sapp Brothers appeared in opposition.</p>		
Planning Commission Recommendation		
<p>The Planning Commission recommends vacating a 5,676 square foot portion of 24th Avenue right-of-way lying west of South 24th Street and abutting part of Block 15 and part of Block 42, Railroad Addition along with a 5,950 square foot portion of 26th Avenue right-of-way lying west of South 24th Street and abutting part of Block 43 and part of Block 70, Railroad Addition as shown on the attached map, subject to an easement being retained in these portions of 24th and 26th Avenues. The vacation shall not become effective until the City receives proof of acquisition by said development. The City shall retain ownership of said right-of-way until the aforementioned parcels are conveyed to the said development interest.</p>		
<p>VOTE: AYE 10 NAY 0 ABSTAIN 0 ABSENT 1 Motion: Carried</p>		
<p>Attachments: Map showing requested right-of-way vacation</p> <p>Prepared By: Rebecca Sall, Planning Technician, Community Development Department</p>		

5 D





**PROPOSED
VACATION**

23RD AVENUE

SOUTH 24TH STREET

CASE #SAV-08-010

RESOLUTION NO. 08-303

A RESOLUTION AUTHORIZING THE VACATION OF A 5,950 SQUARE FOOT PORTION OF 26TH AVENUE RIGHT-OF-WAY LYING WEST OF SOUTH 24TH STREET, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: A 5,950 square foot portion of 26th Avenue right-of-way lying west of South 24th Street and abutting part of Block 43 and part of Block 70, Railroad Addition as described on the attached plat of survey, City of Council Bluffs, Pottawattamie County, Iowa, is of no benefit to the public and should be vacated with the City retaining ownership of said right-of-way.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the above-described city right-of-way vacation shall become effective upon acquisition of the Sapp Bros. property by Continental Iowa Outlets, LLC or assigns and is subjected to the reservation of a permanent and perpetual utilities easement of way; and

BE IT FURTHER RESOLVED

That the City of Council Bluffs will retain ownership of said vacated right-of-way until the acquisition of the abutting property as set out above.

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and any attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED

AND

APPROVED: October 13, 2008

Thomas P. Hanafan, Mayor

ATTEST:

Judith H. Ridgeley, City Clerk

STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

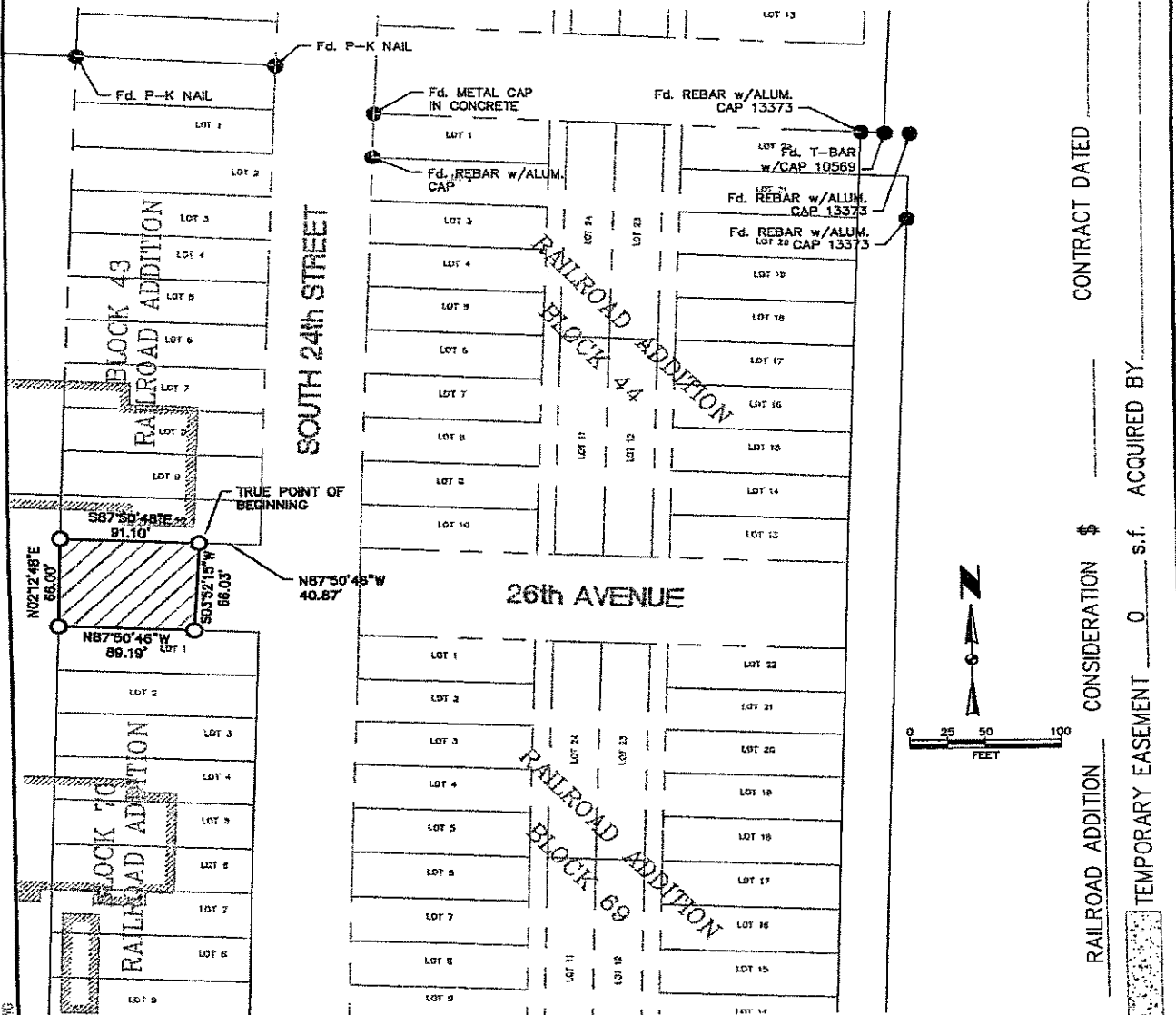
On this _____ day of _____, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Thomas P. Hanafan and Judith H. Ridgeley, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Thomas P. Hanafan and said Judith H. Ridgeley, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Notary Public in and for said State

Planning Case #SAV-08-010
(26th Avenue)

"PLAT OF SURVEY"

EXCESS RIGHT-OF-WAY



LEGAL DESCRIPTION - EXCESS RIGHT-OF-WAY

A PARCEL OF LAND BEING A PORTION OF 26th AVENUE LYING WEST OF SOUTH 24th STREET IN RAILROAD ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF BLOCK 43 IN SAID RAILROAD ADDITION; THENCE ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID 26th AVENUE, NORTH 87 DEGREES 50 MINUTES 46 SECONDS WEST, 40.87 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 03 DEGREES 52 MINUTES 15 SECONDS WEST, 66.03 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SAID 26th AVENUE; THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE, NORTH 87 DEGREES 50 MINUTES 46 SECONDS WEST, 89.19 FEET TO A POINT ON THE WEST LINE OF SAID RAILROAD ADDITION; THENCE ALONG SAID WEST LINE, NORTH 02 DEGREES 12 MINUTES 48 SECONDS EAST, 66.00 FEET TO A POINT ON SAID NORTH RIGHT-OF-WAY LINE; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE SOUTH 87 DEGREES 50 MINUTES 46 SECONDS EAST, 91.10 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS AN AREA OF 5,950 SQUARE FEET (0.137 ACRES), MORE OR LESS.

	I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.	
	MELVIN G. SAMPLES	DATE 6-25-08
	License Number 10568	
	My license renewal date is December 31, 2008	
	Pages or sheets covered by this seal: SHEET 1 OF 1	

LEGEND
○ SET "P-K" NAIL

POTTAWATTAMIE COUNTY

PROJECT NO. 15136-005

DATE DRAWN 06-24-08 DRAWN BY DEF

CONTRACT DATED

CONSIDERATION \$

RAILROAD ADDITION

SUBDIVISION

BLOCK(S)

LOT(S)

ACQUIRED BY

0 s.f.

TEMPORARY EASEMENT

5,950 s.f.

EXCESS RIGHT-OF-WAY

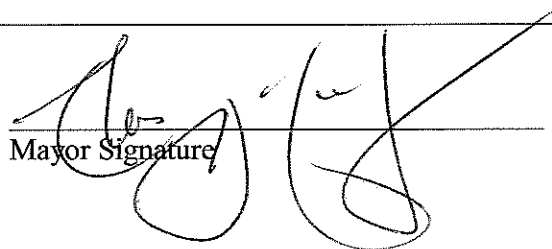


Council Communication

Department: Legal	Ordinance No.	Date: <u>October 13, 2008</u>
Case/Project No.	Resolution No. <u>08-304</u>	
Applicant		
SUBJECT/TITLE		
A resolution authorizing a partial release of a sanitary sewer easement in the Marketplace Subdivision.		
BACKGROUND		
Marketplace LLC has requested that the City release a portion of a sanitary sewer easement within Lot 10 of the Marketplace Subdivision to eliminate a conflict of proposed improvements by ShopKo. There is no reason for the City to maintain its interest in this easement.		
RECOMMENDATION		
Staff recommends this resolution be approved.		

Richard Wade

Department Head Signature



Mayor Signature

SE

RESOLUTION NO. 08-304

A RESOLUTION AUTHORIZING THE DISPOSAL OF CITY PROPERTY BY GRANTING A PARTIAL RELEASE OF A SANITARY SEWER EASEMENT ON LAND DESCRIBED AS LOT 10, THE MARKETPLACE SUBDIVISION.

WHEREAS, the Marketplace final plat recorded at the Office of the Pottawattamie County Recorder in Book 2007, Page 11286, reserved a dead-end public sanitary sewer easement into the rear yard of Lot 10 for service and the City no longer has a need to retain said easement; and

WHEREAS, Resolution No. 08-276, approved on September 22, 2008, expressed the City's intent to dispose of this easement.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

The Mayor is hereby authorized and directed to sign the release document following the required public hearing in this matter and cause said release to be filed with the Pottawattamie County Recorder.

ADOPTED
AND
APPROVED October 13, 2008

Thomas P. Hanafan, Mayor

Attest:

Judith Ridgeley, City Clerk

C.A. 10/13/08

PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RELEASE OF PUBLIC SANITARY EASEMENT

WHEREAS, Resolution Number 07-0195 approved by the City Council for the City of Council Bluffs on April 23, 2007, accepted the final plat of the Marketplace; and

WHEREAS, the Marketplace final plat, recorded at the Office of the Pottawattamie County Recorder in Book 2007, Page 11286, reserved a dead-end public sanitary sewer easement into the rear yard of Lot 10 for service; and

WHEREAS, Marketplace Development LLC requests the release of a 120 ft.- length portion off of the completed dead-end dedicated sanitary easement and public sewer within Lot 10 (See Exhibit "A" attached); and

WHEREAS, release of said 120 ft.-length portion will not remove Lot 10 service rather shorten the public service extension required and eliminate conflict for proposed improvements.

Now, therefore, the City of Council Bluffs does hereby release all interest in the easement described hereinabove as authorized by Resolution No. 08-_____.

Dated this ____ day of October, 2008.

GRANTOR – CITY OF COUNCIL BLUFFS, IOWA

Thomas P. Hanafan, Mayor

Attest: _____
Judith Ridgeley, City Clerk

STATE OF IOWA)
COUNTY OF) ss.
POTTAWATTAMIE)

On this ____ day of _____, 2008, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Thomas P. Hanafan and Judith Ridgeley, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the said City of Council Bluffs, Iowa, a municipal corporation, that the seal affixed hereto is the seal of said municipal corporation; that said instrument was signed and sealed on behalf of said City of Council Bluffs, Iowa, by authority of its City Council; and that said Thomas P. Hanafan and said Judith Ridgeley, as such officers, acknowledge the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Notary Public in and for said State

Project No. EGA061022SV

Exhibit "A"

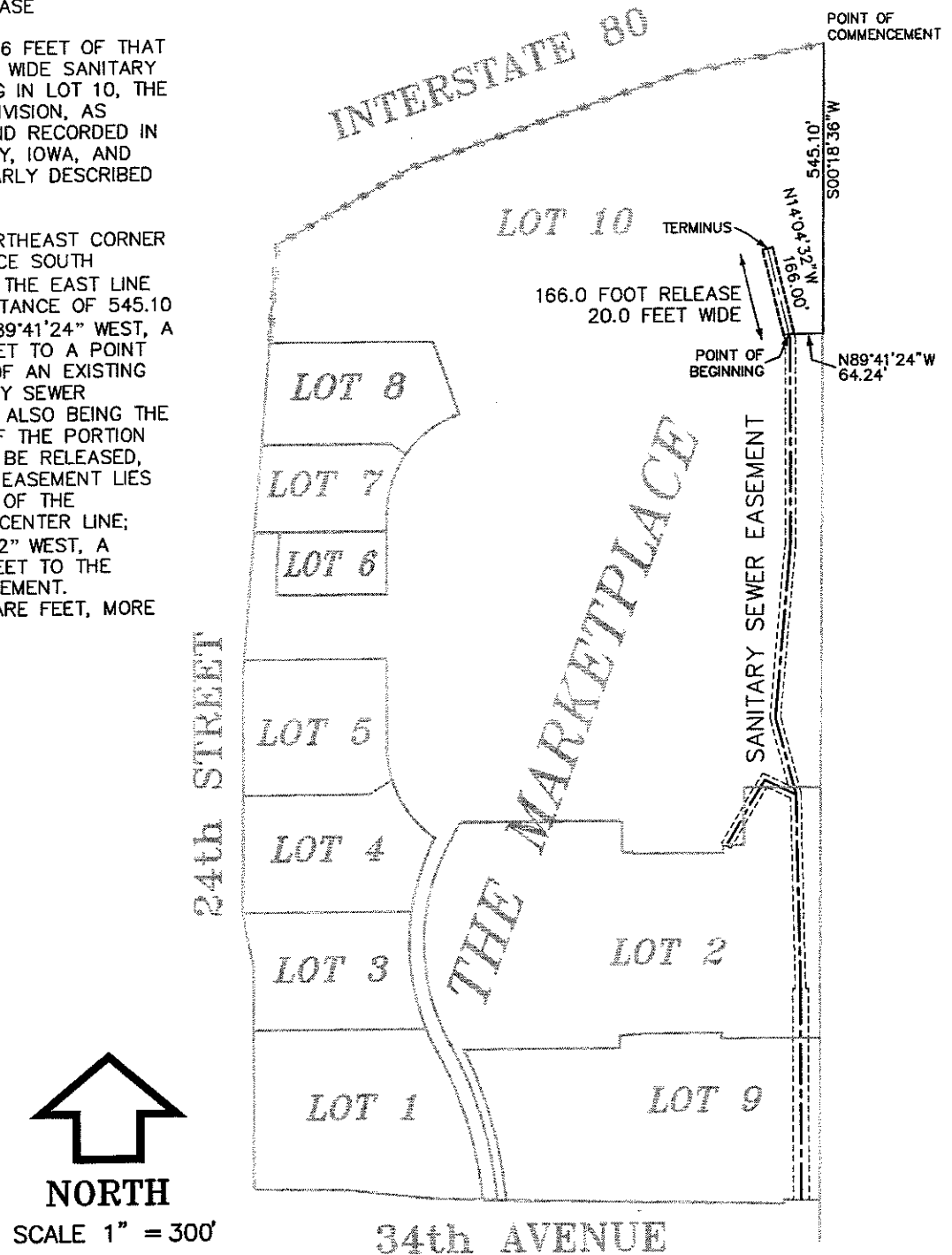
Date: 9-18-07

DESCRIPTION & SKETCH

LEGAL DESCRIPTION: PARTIAL SANITARY
SEWER EASEMENT RELEASE

THE NORTHERNMOST 166 FEET OF THAT
PART OF THE 20 FOOT WIDE SANITARY
SEWER EASEMENT LYING IN LOT 10, THE
MARKETPLACE, A SUBDIVISION, AS
SURVEYED, PLATTED AND RECORDED IN
POTTAWATTAMIE COUNTY, IOWA, AND
BEING MORE PARTICULARLY DESCRIBED
AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER
OF SAID LOT 10; THENCE SOUTH
00°18'36" WEST ALONG THE EAST LINE
OF SAID LOT 10, A DISTANCE OF 545.10
FEET; THENCE NORTH 89°41'24" WEST, A
DISTANCE OF 64.24 FEET TO A POINT
ON THE CENTER LINE OF AN EXISTING
20 FOOT WIDE SANITARY SEWER
EASEMENT, SAID POINT ALSO BEING THE
POINT OF BEGINNING OF THE PORTION
OF SAID EASEMENT TO BE RELEASED,
AND SAID PORTION OF EASEMENT LIES
10.00 FEET EACH SIDE OF THE
FOLLOWING DESCRIBED CENTER LINE;
THENCE NORTH 14°04'32" WEST, A
DISTANCE OF 166.00 FEET TO THE
TERMINUS OF SAID EASEMENT.
CONTAINING 3320 SQUARE FEET, MORE
OR LESS.



**EHRHART
GRIFFIN &
ASSOCIATES**

ENGINEERING

PLANNING

LAND SURVEYING

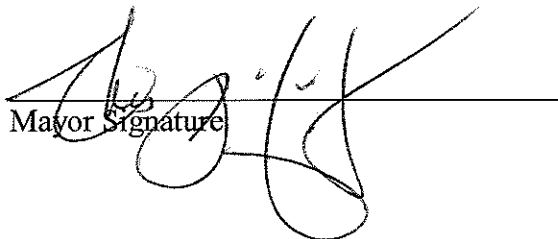
3552 Farnam Street • Omaha, Nebraska 68131 • 402 / 551-0631

Council Communication

Department: Legal	Ordinance No. Resolution No. <u>08-305</u>	Date: <u>October 13, 2008</u>
Case/Project No.		
Subject/Title A RESOLUTION AUTHORIZING RELEASE OF THE EASEMENTS RETAINED ON PROPERTY VACATED AND CONVEYED BY ORDINANCE NO. 3108 PASSED ON NOVEMBER 13, 1944 AND APPROVED ON DECEMBER 4, 1944.		
Background/Discussion Ordinance No. 3108 vacated and conveyed that part of the alley lying east of a point fifteen feet west of the dividing line between Lots 14 and 15, Block 1, Wright's Addition and between Block 1 Wright's Addition and Block 28 Central Subdivision, running easterly and westerly from 24 th Street to 25 th Street, in the City of Council Bluffs, Pottawattamie County, Iowa. Although easements were retained for utilities, no utilities are located on this property. It would be in the best interests of the City of Council Bluffs to release the easements retained by Ordinance No. 3108.		
Recommendation Release easements retained by Ordinance No. 3108.		

Dick Wade, City Attorney

Department Head Signature



Mayor Signature

Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620
Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 08-305

A RESOLUTION authorizing release of the easements retained on property vacated and conveyed by Ordinance No. 3108, passed on November 13, 1944, and approved on December 4, 1944.

WHEREAS, a permanent and perpetual easement of way was granted to and reserved in the City of Council Bluffs on property, described as:

All that part of the alley lying east of a point fifteen feet west of the dividing line between Lots 14 and 15, Block 1, Wright's Addition and between Block 1 Wright's Addition and Block 28 Central Subdivision, running easterly and westerly from 24th Street to 25th Street, in the City of Council Bluffs, Pottawattamie County, Iowa; and

WHEREAS, following public hearing and being fully advised, this City Council hereby releases the utility easement on the property described above.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That this City Council does hereby authorize the release of the utility easement on the above-described property; and

BE IT FURTHER ADVISED

That the Mayor is hereby authorized to execute any documents necessary to release the easement.

ADOPTED
AND
APPROVED October 13, 2008

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620
Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RELEASE OF EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Resolution No. 08-305 passed and approved by the City Council for the City of Council Bluffs, Iowa, on the 13th day of October, 2008, authorized the release of the utility easement granted to and reserved in the City of Council Bluffs for property legally described as:

All that part of the alley lying east of a point fifteen feet west of the dividing line between Lots 14 and 15, Block 1, Wright's Addition and between Block 1 Wright's Addition and Block 28 Central Subdivision, running easterly and westerly from 24th Street to 25th Street, in the City of Council Bluffs, Pottawattamie County, Iowa; and

NOW, THEREFORE, the City of Council Bluffs, Iowa, by its duly authorized officers, does hereby release any and all rights and interest in the above-described utility easement.

IN WITNESS WHEREOF, this instrument has been executed on this 13th day of October, 2008.

CITY OF COUNCIL BLUFFS, IOWA

By: _____
THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

STATE OF IOWA)
COUNTY OF) ss.
POTTAWATTAMIE)

On this _____ day of _____, 2008, before me the undersigned, a notary public in and for said county and state, personally appeared Thomas P. Hanafan and Judith Ridgeley, to me personally known, who, being by me duly sworn, did state that they are the Mayor and City Clerk, respectively, of the said City of Council Bluffs, Iowa, a municipal corporation, that the seal affixed hereto is the seal of said municipal corporation, that said instrument was signed and sealed on behalf of said City of Council Bluffs, Iowa, by authority of its City Council; and that said Thomas P. Hanafan and Judith Ridgeley, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Notary Public in and for said State

Council Communication

Department: Community Development Case No. SUB-08-009 Applicant: Community Development Department	Resolution No. <u>08-306</u>	City Council Public Hearing October 13, 2008
Subject/Title		
Final Plat approval of a subdivision to be known as Franklin Heights Subdivision, being a part of Lot 5, Auditor's Subdivision of the NW¼ SW¼ of Section 32-75-43 and being a part of Lot 5, Auditor's Subdivision of the SW¼ NW¼ of Section 32-75-43, City of Council Bluffs, Pottawattamie County, Iowa. Location: Relocated Franklin Avenue west of Bennett Avenue, Council Bluffs, Iowa.		
Background		
The subject property was purchased by the City from John Gatan in 2002 for the purposes of relocating Franklin Avenue from its previous location south of the property to its current location. The City reconstructed Franklin Avenue and extended Pickardy Lane to relocated Franklin Avenue. At this time it is requested that a subdivision be approved to create the surrounding parcels.		
Discussion		
<ol style="list-style-type: none">1. Access to relocated Franklin Avenue from Lot 1 will be restricted to the general location of Pickardy Lane. Access to relocated Franklin Avenue from Lots 2 and 3 shall be restricted. Lots 2 and 3 shall be permitted only one drive location from each lot and will only be allowed onto Pickardy Lane. Access management restrictions shall be added to the right-of-way dedication on the plat.2. A line of sight study will be required for Lot 1 to ensure that the drive location onto Franklin Avenue or Bennett Avenue provides an acceptable sight distance as determined by the Public Works Department.3. The drive/roadway leading from relocated Franklin Avenue to the Clark cemetery is not located within the boundary of the subdivision. Access to the City owned cemetery will not be impacted by the proposed final plat.4. Storm sewer and sanitary sewer are located along relocated Franklin Avenue.5. A water main extension agreement will be necessary for development of property included in the plat.6. Electric distribution facilities must be extended to the site. Mid-American Energy requires additional information related to a development project prior to design of such facilities. Electric distribution facilities extended to the site and within the site must be underground. No overhead utilities shall be allowed.7. Subsequent development must extend all utilities and sidewalks as necessary.		
Recommendation		
The Community Development recommends approval of the final plat for a subdivision to be known as Franklin Heights Subdivision, as shown on Attachment 'A', subject to the following: <ol style="list-style-type: none">1. Modify the right-of-way dedication to include the access restrictions discussed above.2. A line of sight study shall be required prior to establishment of a driveway location from Lot 1 to Franklin Avenue and/or Bennett Avenue.3. All utilities extended to the subdivision and located within the subdivision shall be installed underground.		

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4. Incorporation of all technical corrections required by the Community Development Department and/or Public Works Department into the final plat document.
Attachment: Attachment A - Final Plat
Surveyor: HGM Associates, Inc., 640 5 th Avenue, Council Bluffs, IA
Prepared by: Rose E. Brown, Urban Planner, Community Development Department

Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, Iowa 51503 (712) 328-4620
Return to: City Clerk, 209 Pearl Street, Council Bluffs, Iowa 51503 (712) 328-4616

RESOLUTION NO. 08-306

A RESOLUTION granting final plat approval for a subdivision to be known as Franklin Heights Subdivision.

WHEREAS, the subject property was purchased by the City in 2002 for the purposes of relocating Franklin Avenue from its previous location south of the property to its current location; and

WHEREAS, the City reconstructed Franklin Avenue and extended Pickardy Lane to relocated Franklin Avenue. At this time, it is requested that a subdivision be approved to create the surrounding parcels; and

WHEREAS, the Community Development Department recommends approval of the final plat for a subdivision to be known as Franklin Heights Subdivision, as shown on Attachment "A", subject to the following:

1. Modify the right-of-way dedication to include the access restrictions discussed in the Council Communication.
2. A line of sight study shall be required prior to establishment of a driveway location from Lot 1 to Franklin Avenue and/or Bennett Avenue.
3. All utilities extended to the subdivision and located within the subdivision shall be installed underground.
4. Incorporation of all technical corrections required by the Community Development and/or Public Works Department into the final plat document.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the final plat for a subdivision to be known as Franklin Heights Subdivision, as shown on Attachment "A", is hereby approved, subject to the conditions set forth above; and

BE IT FURTHER RESOLVED

That the Mayor and City Clerk are hereby authorized and directed to endorse the final plat.

ADOPTED
AND
APPROVED October 13, 2008

THOMAS P. HANAFAN Mayor

Attest: JUDITH RIDGELEY City Clerk

Planning Case No. SUB-08-009

LINE INFORMATION	
L1	N3728.48 W 28.50
L2	N3728.50 W 28.50
L3	N3728.10 W 28.50
L4	N3728.5 W 28.50
L5	N3728.10 W 1.10
L6	N3728.5 W 17.77

A parcel of land being a portion of Lot 5, Auditor's Subdivision of the Northwest Quarter of the Northwest Quarter (NW1/4NW1/4) and a portion of Lot 5, Auditor's Subdivision of the Southwest Quarter of the Northwest Quarter (SW1/4NW1/4), in Section 32, Township 75 North, Range 43 West of the Fifth Principal Meridian, City of Council Bluffs, Pottawattamie County, Iowa, bounded and described as follows:

thence along the southeasterly line of said Lot 5, Auditor's Subdivision of the Southwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$ /NW $\frac{1}{4}$ /4), along the southeasterly line of said Lot 5, Auditor's Subdivision of the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ /SW $\frac{1}{4}$ /4), along said northeasterly right-of-way line of Bennett Avenue and along the boundary of said conveyed parcel, the following two (2) courses:

- CITY COUNCIL

APPROVED BY MAYOR: THE HONORABLE THOMAS P. HANAHAN DATE _____
 ATTESTED TO BY: _____

CITY CLEANS	JOINT H. RIDGELEY	DATE

DATE	COMMUNITY DEVELOPMENT DIRECTOR	DONALD GROSS
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CERTIFICATE OF TREASURER OF POTTAWATTAMIE COUNTY, IOWA

I, THE TREASURER OF POTTAWATTAMIE COUNTY, IOWA, HEREBY CERTIFY THAT THE PROPERTY INCLUDED IN FRANKLIN HEIGHTS SUBDIVISION, IS FREE FROM CERTIFIED TAXES AND CERTIFIED SPECIAL ASSESSMENTS.

TREASURER OF POTTAWATTAMIE COUNTY, IOWA JUDY ANN MILLER DATE

WE HEREBY CERTIFY THAT WE WILL MEET ALL EQUAL OPPORTUNITY AND FAIR MARKETING
COLLECTIVES CONSISTENT WITH FEDERAL, STATE AND LOCAL GUIDELINES. WE HEREBY CERTIFY
THAT THE FOLLOWING DOCUMENTS WILL BE RECORDED WITH THE POTTSWATIMIE COUNTY
REGISTER COMPTROLLER'S OFFICE WITH THE SAME AS THE FOLLOWING:

BEFORE ALL PERSONS BY THEM PRESENTS THAT THE CITY OF COUNCIL BLUFFS, IOWA, BEING THE SOLE OWNER OF THE PROPERTY DESCRIBED WITHIN THE LEGAL DESCRIPTION AND EMBARRASSED WITH THIS PLAT, HAS CAUSED SAID PROPERTY TO BE SUBDIVIDED AS LOTS 1 THROUGH 4, INCLUSIVE, AND PUBLIC STREET FRONT—OF-AY FOR FRANKLIN AVENUE AND PICKAWAY LANE, SAID PROPERTY TO BE KNOWN AS FRANKLIN HEIGHTS SUBDIVISION, SAID CITY OF COUNCIL BLUFFS DOES HEREBY DEDICATE TO THE PUBLIC, THE RIGHT-OF-WAY FOR FRANKLIN AVENUE AND PICKAWAY LANE(108 ACRES, MORE OR LESS).

IN WITNESS WHEREOF, I DO HEREBY RATIFY AND APPROVE OF THE DISPOSITION
OF THE CITY OF COLUMBIA BLUFFS PROPERTY AS CONTAINED HEREIN ON THIS
_____ DAY OF _____, 2008.

THE HONORABLE THOMAS P. MAHAFAH
MAYOR

COUNTY OF POTTAWATOMIE

[illegible]

MONETARY PUBLIC IN AND FOR THE STATE OF IOWA

AND N. J. PETERSON

FRANKLIN HEIGHTS SUBDIVISION

COUNCIL BLUFFS COMMUNITY DEVELOPMENT DEPT.
209 BEAR STREET, COUNCIL BLUFFS, IOWA

1 OF 1

hereby certify that this land surveying document was prepared and
 the related surveying work was performed by me or under my direct
 supervision and that I am a duly licensed Land Surveyor
 under the laws of the State of North Carolina.
 Date 9-11-2008 State of N.C.
 My Commission Expires 9-11-2010
 Surveyor WILLIAM Q. BATTLE License Number 12088
 My license renewal date is December 31, 2008
 Copies or prints obtained by this means:

STANDARD UTILITY EASEMENTS
A PERPETUAL EASEMENT IS HEREBY GRANTED TO THE CITY OF CHICAGO AND THE INSTALLATION AND MAINTENANCE THEREOF, TO A DEPTH OF TWO FEET EACH SIDE OF INTERIOR CURB, TO BE LOCATED ON THE NORTH SIDE OF THE LOT, WITH A WIDTH ALONG ALL FRONT AND SIDE LINES OF THE LOT, FOR THE INSTALLATION OF ORANGE AREAS AND INCLUSIVE THEREOF, AND ARE TO BE USED BY THE OWNERS OF THE LOTS

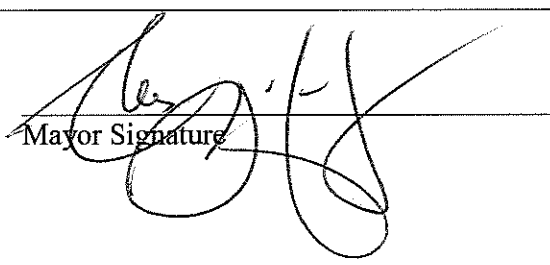
THE ABOVE DESCRIBED SPACING STUDIES, IF ANY, ARE PRIVATE AND ARE TO BE INSTALLED AND MAINTAINED BY THE OWNERS OF THE LOTS ADJOINING THE SAID UTILITY EASEMENT (28' WIDE)

Council Communication

Department: Legal Case/Project No. Applicant	Ordinance No. Resolution No. <u>08-307</u>	Date: October 13, 2008
SUBJECT/TITLE		
Resolution authorizing the granting of an easement to MidAmerican Energy		
BACKGROUND		
To provide for the electrical needs of the soccer fields under construction at the Council Bluffs Recreation Complex located at 2900 Richard Downing Avenue, it is necessary to grant an electrical easement to MidAmerican Energy.		
RECOMMENDATION		
Staff recommends approval of this resolution.		

Richard Wade

Department Head Signature



Mayor Signature

PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 08-307

A RESOLUTION AUTHORIZING THE DISPOSAL OF CERTAIN CITY PROPERTY BY GRANTING AN UNDERGROUND ELECTRIC EASEMENT TO MIDAMERICAN ENERGY.

WHEREAS, as a part of the improvements to the Council Bluffs Recreation Complex, it is necessary to install a new utility line for service to this area; and

WHEREAS, Resolution No. 08-297 approved on the 22nd day of September, expressed the City's intent to grant said easement.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

That following the mandated public hearing in this matter, the Mayor is hereby authorized and directed to sign the necessary documents granting MidAmerican Energy an underground electric easement for improvements to the soccer field area at the Council Bluffs Sports Complex.

ADOPTED
AND
APPROVED October 13, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith Ridgeley, City Clerk